Before the

Federal Communications Commission

Washington, D.C. 20554

Reply To Comments

FCC 07-172

Of the more than 300 comments addressing this NPRM I noticed that the vast majority of those responding are owners and/or operators of small, often less than 5kw stations. These are the operators who need this relief the most. Support for this NPRM is almost universal. Other than Prometheus Radio Project, the few who oppose or share comments of caution appear to represent larger broadcasters who stand to gain little and quite frankly will lose little regardless of how the proposal plays out.[1]

As recounted in the State Association's comments, those few AM stations who have received STA's to operate over FM translators tell a story of unmitigated success along with a rebirth of broadcast viability and greatly increased service to their communities of license.[2]

Cliff Davis pointed out "Comment after comment speaks of how local stand alone stations, many owned by families or actual Mom and Pop operations, have been doing the best they can to provide service in an environment with increasing noise and skywave interference. . . . These stations are in dire need and many are on the brink of going under. While it is not the job of the government to prop these stations up, the government

[1] The Prometheus Radio Project has valid concerns which I'll address momentarily.

[2] Named State Broadcaster's Associations, 07-172 Comments, filed by Richard R. Zaragoza (1/07/08).

must realize the problems that will result if thousands of AM stations go dark and so many areas lose their primary LOCAL radio service. The ripple effect will not be good for the public, the economy or public safety. I dare say the NPRM at hand is as important as the advent of color television."[3]

Mr. Davis said it well; however, while "it is not the job of the government to prop these stations up," I believe the government has a responsibility to provide a regulatory environment which makes successful broadcasting possible. This proposed rule change has the potential to do just that, and to do it for small market AM broadcasters, the ones who need it the most and who come the closest of any radio broadcaster to fulfilling the FCC's "core values of localism, diversity, and competition."[4]

Re: NPR, CBS, Prometheus, and LPFM

Holston Valley Broadcasting Corporation's reply to the concerns of NPR, CBS, and Prometheus largely echo my thoughts and I won't repeat them here.[5] However, I do want to share some additional thoughts regarding LPFM broadcasting.

I helped four local communities apply for and receive LPFM licenses. I understand and share the burden of those who wish to serve their

[3] Cliff Davis, 07-172 Reply Comments (1/7/2008).
[4] FCC 07-204, paragraph 49.
[5] Holston Valley Broadcasting Corporation, 07-172 Reply Comments (2/1/08).

communities through broadcasting but can't find or can't afford existing broadcast facilities. The LPFM movement is a tremendous boon to these broadcasters or would-be broadcasters and to the communities they serve or wish to serve. However the LPFM's I helped get on the air are finding that supporting a full-time, low-power operation is very difficult. The signals don't encompass enough population to receive a lot of support from their communities.

Now, the latest FCC LPFM proposals (tightening up local programming requirement definitions along with the now final prohibition of multiple ownership) will put at least three of the four LPFM stations I helped establish out of business at the next license renewal. I am positive about LPFM but somewhat dubious about it's long-term viability, at least in rural areas and under the present rules. Unfortunately, as with FM translators, these rural areas may presently be just about the only RF spectrum available for LPFM. I believe we will see a lot of LPFM broadcasters come and go as the LPFM movement sorts itself out.

The concerns of Prometheus to some extent parallel Mr. Foster's thoughts.[6] Reduced to their essence, Prometheus's concern is that available RF spectrum is so limited that by allowing AM facilities to utilize FM channels, potential LPFM stations will lose out to FM translators broadcasting AM programming. Mr. Foster is concerned that if we allow the

[6] James Foster, Reply To Comments, 07-172 (1/25/08) cf. Prometheus Radio Project, Comments, 07-172 (1/07/08).

AM to FM contour to extend beyond the 2 mV/m limit, RF spectrum will not be available as needed. These concerns may very well have validity in densely populated areas of the country. However, I suspect in these areas that present RF spectrum is already largely filled. Whatever decisions are made in this ruling will not affect these already overly-RF-populated areas very much either way.

This overcrowding concern is not nearly as valid in rural, smaller markets, where we need the help the most! For example, I plugged the coordinates for my transmitter site into the FCC's LPFM Channel Finder. My facility is licensed to a rural area located adjacent to Chattanooga, Tennessee. I discovered six LP100 channels available; remember the FCC LPFM Channel Finder presently uses the old LPFM distance separation method. Even though I realize every location is different I share this study as a real-life example of rural possibilities.

With the expectation that the LPFM rules will soon change so that LPFM frequency availabilities are discovered using contour protection interference techniques rather than today's strict mileage separation approach, we will see many more frequencies open up for LPFM.

Even more space may very well open up soon. Should Congress accept the Commission's recommendation and repeal their ban on third-adjacent channel protection from LPFM's, more RF spectrum will be available. Finally, with channel six TV vacating its present assignment for digital

spectrum, the Commission can choose to open up that entire block of frequencies for more FM channels.

When we combine all this with the Commission's new and proposed rules for LPFM, rules favoring LPFM broadcasting in varied scenarios and promising LPFM the next filing window, I believe LPFM broadcasters and potential LPFM broadcasters have little to fear from this NPRM.[7]

Re. Contour Limitations

The Commission raised the question of contour limitations. In my initial comments I addressed the 2mv/m contour restriction, using my operating parameters as an example. WGNQ operates on 1480 khz with 1 kw of power during the day and with ultimately reduced power of 39 watts at night. I show that the 2 mV/m contour limits me to an approximate 8-mile radius with a total population of 16,022. If I rely on that contour as my listener base I have very little chance of success. I am forced to rely on my .5 mV/m contour as my listener base thus increasing the listener pool from which I can get my share.[8] This is the economic reality I and many other small-market, AM broadcasters face.

[7] NPRM in MM Docket No. 99-25.

[8] MG Media, Inc. 07-172 Comments (12/17/07). As with any market, I only get a piece of the pie, we can safely assume that not all of those 16,022 are listening to my station. At a 15 mile radius my potential listening audience grows to 41,446.

In addition to facilities licensed with lower-power, higher-frequency restricted contours, Sutton Broadcasting raises the issue of vastly different 2 mV/m contours caused by varied ground conductivity. In this study, Sutton compares two facilities licensed with identical parameters but located on vastly different ground conductivities. Notice that in a comparison of WCON's 2 mV/m contour to KYNT's, Sutton demonstrates that WCON covers 566 square kilometers while KYTN covers 7602 square kilometers. KYTN's coverage is almost 14 times the coverage of WCON.[9] Suttons' conclusion?

> The very AM stations which need the service improvement the most due to their limited coverage caused by ground conductivity will yield the least improvement with a FM translator since their 2 mV/m contours are so restricted in range by the Commission's current proposal. By allowing AM stations to broadcast over FM translators which has a 60 dbu of no greater than 25 miles, a much more level playing field will be provided which will result in much greater service to the general public. A rule of up to 25 miles also would result in uniform service nationwide. Those AM stations operating in good conductivity areas would still be able to offer FM service not beyond 25 miles and those in poor conductivity areas would not be penalized because of bad soil conductivity.[10]

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[9] WCON in Cornelia, Georgia operates with 1000 watts on 1450 kHz. Its 2 mV/m contour covers 556 square kilometers. KYTN in Yankton, South Dakota, operates with the same identical facilities, 1000 watts on 1450 kHz, yet covers 7602.3 sq kilometers; almost 14 times more area! This is despite the fact that WCON even has a taller tower at 106 degrees to KYNT's 90 degree tower, giving WCON a slight "edge" in efficiency over KYNT but to no avail since the conductivity is so much worse in the Cornelia area. . . . WCON's 2 mV/m contour extends only 8 miles compared to the distance to KYNT's 2 mV/m contour being 34 miles. As a result, despite the area surrounding Cornelia, Georgia being more densely populated than KYNT, KYNT serves 70% more persons within its 2 mV/m contour than WCO(AM). (Sutton Broadcasting Corporation, Footnote 1, 07-172 Comments dated 01/07/2008)

[10] (Sutton Broadcasting Corporation, 07-172 Comments dated 01/07/2008)

I respectfully submit that while the purpose of this NPRM is *not* designed to give extra market to existing stations, it's purpose *is expressly* aimed at bringing a degree of parity to the broadcasting field. Therefore I emphasize again the need for changing the proposal to at least extend the contour to the .5 mV/m limit of each broadcasting facility, if such facility operates with 1 kw or less on the higher end of the AM frequency spectrum or is located on ground with significantly lower conductivity.

As I mentioned in my previous comments, I find no physical reason to limit the fill-in contour to 2 mV/m (for stations with parameters similar to mine). The proposed limitation *must* be more of a turf-protecting concern. This concern is largely invalid for those of us needing the relief the most. In rural areas operators of stations similar to mine are not so worried about trampling all over each other's market as we are concerned that the people we serve will hear us at all!

Because of the limited area encompassed by stations with parameters similar to those above I submit that the 2mv/M contour limit is too restrictive, at least for facilities with lower-power, higher-frequency authorizations and for those with low ground conductivity. For similar reasons at least seven other commentators agree. They support variants including: increasing the contour to the .5 mV/m, including the greater of .5 mV/m or 25/35 miles, or extending it at least to the lesser of .5 mV/meter or 25 miles, or extending to 35 km to approximately equal the contour of a Class

C3 or B1 FM station, or simply extending it to 25 or 35 miles depending on the zone, with no 2 mV/m or .5 mV/m limitation.[11]

In his comments dated 1/25/08, Mr. James Foster builds a solid case regarding limiting the contour to 2 mV/m. I believe that relaxing this standard for facilities with LIMITED COVERAGE will NOT cause the spectrum shortage he envisions. As I mentioned earlier his concern is that if we allow the contour to extend beyond 2 mV/m, not enough spectrum will be left to spread around. I agree that if we relax the contour for ALL stations REGARDLESS of power or ground conductivity we very well may overwhelm the available spectrum. However, I demonstrated in the preceding

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[11] See for example the following comments addressing 07-172: Progressive Broadcasting Systems, Inc., (1/7/08), and Urban Radio Licenses, LLC et al (1/7/08), along with MG Media, Inc. (12/17/07) all request that the contour be extended to at least .5 mV/m; Pocahontas Communications Cooperative Corporation (1/7/08), OneCom (1/7/08), and Richardson Broadcasting (1/7/08) all suggest the greater of 25 miles or 2 mV/m; Eastern Sierra Broadcasting suggests a variant of the same (1/7/08).

Timothy Cutforth puts forth a good argument for limiting to 35 km: "There is no comparable FM translator distance restraint. The maximum allowable distance to the fill-in translator on an FM station is set totally by the predicted F(50,50) contour distance and varies widely with the Class and AHAAT. Setting a maximum distance of 25km for a fill-in translator for use with an AM station is equivalent to declaring the maximum desirable AM service area should be equivalent or less than that for a Class A FM station. Class A facilities are generally considered adequate to serve only small to medium sized markets. At a distance of 35km the AM would be allowed to fill-in a service area equivalent to Class C3 or Class B1 FM facilities. Many AM stations providing 2mV/m or better service over an entire metro area in markets are unable to provide interference free service to the whole market at night. Most of the top 100 markets extend more than 35km from edge to edge and limiting the location of the translator to less than 35km will preclude those stations even with the aid of FM translator fill- in service from serving the whole market. If a distance limit is necessary for reasons other than rationing of the FCC workload please use the 35km distance rather than the 25km distance. The scarcity of available translator channels in all but the smallest markets will minimize both the potential for service extension and the FCC application workload."

paragraphs (Re.: NPR, CBS, Prometheus, and LPFM) that at least in rural, small-market areas, much space is still available with even more on the way.

My position is that if we are serious about giving some degree of parity to AM operators in small markets we DO need to extend the contour of these lower-power, higher-frequency stations. Mr. Foster stated our problem well when he described our coverage: "Lower power AM stations at the upper end of the dial have less 'area to locate' than lower dial position higher power stations due to the difference in contour size."[12]

I make the same plea I made in my initial comments on this NPRM: We must NOT penalize our rural, small-market broadcasters with restrictions that are largely valid in densely populated areas. Lack of available spectrum in metropolitan areas should not penalize those of us in rural areas. We need the help the most simply because our contours encompass less dense populations. Limited contour broadcasters in heavily populated areas may not be helped by this NPRM but their part of the pie includes more population simply by virtue of population density.[13]

Therefore I emphasize again the need for changing the proposal to at least extend the contour to the .5 mV/m limit of each broadcasting facility, if such facility operates with 1 kw or less on the higher end of the AM frequency spectrum or is located on ground with significantly lower conductivity.

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[12] James Foster, Reply To Comments, 07-172, (1/25/08).

[13] They may not be helped by virtue of the fact that no new FM translator frequencies may be available. However, once AM transmissions are allowed to translate to FM, they will have the option of purchasing, renting, perhaps even renting a HD channel, or otherwise obtaining carriage on FM.

Filing Window

I agree with the majority of commentators who believe a new filing window needs to be scheduled to allow AM operators to apply for new FM translators. After all, the spectrum does no one any good just sitting there idle and the public good will best be served by putting it to use.

I also agree with the majority who comment that some prioritization and protection is imperative to allow those needing the FM translators the most the opportunity to obtain them.[14] Varied proposals have been put forth with the main theme being that 1) Safeguards must be in place to ensure that the spectrum is truly available to needy AM operators with no FM outlet as opposed to speculators or large operators with multiple FM outlets already present in the same market.

Concerns were expressed that the large chains of NCE translators violate the spirit of the law. While much good is being done by many of these NCE broadcasters, the fact that these translators can prevent a local

[14] In my previous comments I proposed assigning a hierarchical priority to new translator applications is the best answer to further growth. In the initial filing window, allow Daytime only and reduced-Nighttime power AM's through the gate first. If limited translator spectrum requires further prioritization during the initial window in a given market, prioritize based on size and co-ownership. For example, first allow daytime only and low-power nighttime stations, secondly, stations limited to 5KW day or night, and finally, those with no co-owned FM stations in the same market. After these needs are met, establish further filing windows with similar priorities for more powerful stations and AM stations with co-owned FM stations in the same market. AM stations with co-owned FM stations in the same market should be allowed to apply for FM translators but only if spectrum remains after the process outlined in the preceding paragraph. Once an AM station is granted its full compliment of translators the translators should remain with the station as long as needed regardless of future ownership combinations. MG Media, Inc. 07-172 Comments (12/17/07).

broadcaster access to needed FM channel does seem highly irregular. 2) I and many other commentators believe a priority favoring Daytime only and Low-power Nighttime stations must be in place.

Displacement Protection

Another point many have raised relates to the protected or non-protected status of AM to FM translators as compared to LPFM facilities and other translators including FM translators re-broadcasting non-local stations. Fairness as well as the need for real help for the AM broadcaster dictates that this NPRM includes provisions giving the AM to FM translator a protected status at least equal to that given in the recent and proposed rules for LPFM. The NPRM should also specify these translators are fill-in translators thus giving authorization to operate at the full 250 watts specified for fill-in translators as long as other applicable parameters are met.[15]

Finally, I urge the commission to resolve these issues as soon as good practice allows, and once the decisions are made to immediately allow AM

[15] "The Commission's new rules should make clear that as long as the FM translator is being used to enhance the coverage of an AM station in the manner allowed under the Commission's rules, that it should be considered to be a "fill-in" translator, and therefore allowed to hypothetically increase power to a full 250 watts (as long as, or course, such power increase does not cause the contour to extend beyond whatever limits are adopted in this proceeding)." "To ensure that AM station service on FM stations remains uninterrupted once it commences operations, the filing of displacement FM translator station should be specifically allowed, and the same reimbursement contemplated to LPFM stations should be provided to FM translators." Sutton Broadcasting, Comments 07-172, (1/7/08).

facilities to translate up to FM using already existing translators, as long as these translators meet the newly specified parameters.

While I've expressed my thoughts rather forcefully I am thankful for all the help, and to whatever extent, the Commission ultimately gives to small market AM broadcasters like me and I URGE THE COMMISSION TO ACT QUICKLY!

Respectfully submitted by,

Marvin Glass
President, MG Media, Inc., licensee of WGNQ